

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	EP-04-CR-2091-KC
	§	EP-04-CR-2092-KC
	§	EP-04-CR-2093-KC
NOEL TOLENTINO	§	EP-04-CR-2094-KC

MOTION FOR CONTINUANCE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Comes now Defendant, Noel Tolentino, and, without waiving the Motion for Reconsideration of Order Denying Motion to Withdraw as Counsel of Record previously filed by the undersigned, files this, his Motion for Continuance, and respectfully shows the Court as follows:

I.

As the Court is aware, this case has been pending for quite some time on the Court's docket and has experienced several permutations including multiple trial settings and several attorneys. This is an incredibly complex case involving thousands upon thousands of documents. Prior to the motion for mis-trial which the Court previously granted, the Government's case in chief had lasted some seven weeks. In July, 2007 the Government filed a Second Superseding Indictment which deleted some of the charges against the Defendants and added at least one other charge against Defendant Angelica Tolentino, specifically Misprision of a Felony, Visa Fraud. As of this date, the Government has identified an incredible number of witnesses and documents which it intends to offer at the re-trial. In light of the foregoing, additional time is necessary to prepare his defense to the charges.

The parties have repeatedly attempted to negotiate a disposition of the case without the necessity of a trial. Those negotiations have repeatedly failed.

Given the changes the Indictment in this case, Defendant is requesting that the Court vacate the current trial setting of September 14, 2007, and re-set this case for trial at a later date to permit the defense additional time to investigate and to prepare defenses to the new charges. The additional time requested herein is essential for the preparation of a defense and to render effective assistance of counsel.

Further, the undersigned has ordered a copy of the trial transcript.¹ The undersigned has learned that it will take at least one month, and perhaps two months, for the Court Reporter to prepare said transcript. Given the sheer volume of evidence offered by the Government at the first trial, as well as the substantial number of witnesses who actually testified, it is imperative that counsel have the transcript available for the re-trial for effective cross-examination of those witnesses who will testify in both trials.²

II.

The undersigned has spoken to counsel for Defendants Angelica Tolentino, Florita Tolentino and Roland Sotelo and each join in Defendant Angelica Tolentino's Motion for Continuance. The undersigned spoke with Assistant U.S. Attorney Bill Lewis prior to the filing

¹ The undersigned filed a Motion to Withdraw as Counsel which the Court denied and subsequently appointed the undersigned to represent Mr. Tolentino pursuant to the Criminal Justice Act. The undersigned has since filed a Motion for Reconsideration of that appointment which is pending at this time.

² The transcript was not ordered previously because Defendant Noel Tolentino had no funds available to pay for the transcript, nor for that matter, did any other Defendant. *See* Motions to Withdraw previously filed by counsel for Noel Tolentino and Angelica Tolentino.

of this Motion and Mr. Lewis indicated that the Government would stand by the Response it filed to Defendant Angelica Tolentino's Motion to Withdraw..

WHEREFORE, premises considered, Defendant Noel Tolentino prays that the Court grant this Motion, vacate the current trial setting of September 14, 2007 and re-set this matter for trial at a later date.

Respectfully submitted,

LAW OFFICE OF RONALD EDERER
1020 N. E. Loop 410, Ste. 270
San Antonio, TX 78209
Tel: (210) 822-6775
Fax: (210) 822-4775

By: /s/
 Ronald Ederer
 TX. Bar No. 06418000

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of August, 2007, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record in this action.

/s/
Ronald Ederer

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	EP-04-CR-2091-KC
	§	EP-04-CR-2092-KC
NOEL TOLENTINO	§	EP-04-CR-2093-KC
	§	EP-04-CR-2094-KC

ORDER

On this day, the Court considered Defendant Angelica Tolentino's Motion for Continuance filed in the above-captioned cause. After due consideration, the Court is of the opinion that the Motion should be granted.

Accordingly, **IT IS HEREBY ORDERED** that Defendant Noel Tolentino's Motion for Continuance is **GRANTED**.

IT IS FURTHER ORDERED that the current trial setting of September 14, 2007 is hereby **VACATED**.

IT IS FURTHER ORDERED that the above-captioned cause is re-set for jury selection and trial on the _____ day of _____, 200__ at _____ a.m./p.m.

SIGNED this _____ day of _____, 2007.

KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE